

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

MARIA SUAREZ,

Plaintiff,

v.

SOUTHERN GLAZER'S WINE AND SPIRITS OF
NEW YORK, LLC,

Defendant.

Case No. 2:19-cv-07271-GRB-SIL

JOINT PRE-TRIAL ORDER

The parties having conferred among themselves and with the Court pursuant to Federal Rule of Civil Procedure 16, the following statements, directions and agreements are adopted as the Pretrial Order herein.

1. The purported basis for the presence or absence of subject matter jurisdiction;

This Court has original subject matter jurisdiction over the Plaintiff's Title VII claims pursuant to 28 U.S.C. §§ 1331 and 1343, original subject matter jurisdiction over the Equal Pay Act (EPA) claims pursuant to 28 U.S.C. § 1331; 28 U.S.C. § 1343, and 29 U.S.C. § 216(b). This Court has supplemental jurisdiction over the New York Human Rights Law and New York Labor Law claims under 28 U.S.C. § 1367, because they arise from a common nucleus of operative facts with the federal claims and are so related to the federal claims as to form part of the same case or controversy under Article III of the United States Constitution.

2. The claims and defenses that remain to be tried;

The following claims remain to be tried:

- Count I: Retaliation in Violation of the Equal Pay Act, and the Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
- Count II: Retaliation in Violation of N.Y. Lab. Law § 215.
- Count III: Retaliation in Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq.
- Count IV: Retaliation in Violation of the New York State Human Rights Law, New York Executive Law § 296.
- Count V: Unpaid Overtime under the N.Y. Labor Law and Supporting Regulations.

Defendant denies all claims and allegations.

3. Whether the case is to be tried with or without a jury, and the number of trial days needed;

The case is to be tried with a jury. The parties anticipate the trial will last ten (10) days.

4. Any stipulations or statement of facts that have been agreed to by all parties;

The parties stipulate to the following facts:

See Exhibit A annexed hereto.

5. All fact and expert witnesses whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition. Only listed witnesses will be permitted to testify, except for good cause shown;

Plaintiff intends to call the following witnesses in her case in chief:

Witness Name	In Person or Deposition
Maria Suarez	In person
Marie Micheline Josianne (“Josie”) Sajous	In person

Defendant intends to call the following witnesses in its case in chief:

Witness Name	In Person or Deposition
Roy Kohn (VP of Operations)	In person
Kevin Randall (Operations Vice President)	In person
Elizabeth Toohig (Former Director of Human Resources)	In person
Tonisha Durant (WMI Inventory Control Manager)	In person
Melissa Decker Johnson (Inventory Manager)	In person
Barry Finkelstein (Warehouse Manager)	In person
Dina Wald-Margolis (Former Ass. Dir. HR)	In person

6. The deposition testimony to be offered in its case in chief, with any cross designations and objections by any other party;

Plaintiff intends to offer the following deposition testimony in her case in chief:

Deposition	Testimony	Defendant's Objections
Deposition of John Wilkinson, Plaintiff's Manager taken on October 25, 2016 in the case of <i>Sajous v. Southern Wine & Spirits of New York, Inc.</i> , 15-cv-3270 (E.D.N.Y.),	Full Transcript	Defendant objects to the use of any deposition except as specifically permitted by FRCP 32. Defendant further objects based on relevancy because the deposition testimony Plaintiff is seeking to introduce is from a previous lawsuit and was not produced in this action. Defendant further objects because the testimony will be subject to Defendant's anticipated limine motion because the probative value outweighs the prejudicial effect.
Deposition of Elizabeth Toohig, Plaintiff's Manager taken on October 26, 2016 in the case of <i>Sajous v. Southern Wine & Spirits of New York, Inc.</i> , 15-cv-3270 (E.D.N.Y.).	Full Transcript	Defendant objects to the use of any deposition except as specifically permitted by FRCP 32. Defendant further objects based on relevancy because the deposition testimony Plaintiff is seeking to introduce is from a previous lawsuit and was not produced in this action. Defendant further objects because the testimony will be subject to Defendant's anticipated limine motion because the probative value outweighs the prejudicial effect.
Deposition of Maria Suarez taken on October 7, 2016 in the case of <i>Sajous v. Southern Wine & Spirits of New York, Inc.</i> , 15-cv-3270 (E.D.N.Y.).	Full Transcript	Defendant objects to the use of any deposition except as specifically permitted by FRCP 32. Defendant further objects to the introduction of the entire transcript for relevancy and because the testimony will be subject to Defendant's anticipated limine motion because the probative value outweighs the prejudicial effect.

Defendant intends to offer the following deposition testimony in its case in chief:

Witness Name	Testimony	Plaintiff's Objection
Roy Kohn	Full transcript	Plaintiff objects to the use of any deposition except as specifically permitted by FRCP 32.
Kevin Randall	Full transcript	
Elizabeth Toohig	Full transcript	
Tonisha Durant	Full transcript	
Melissa Decker Johnson	Full transcript	
Barry Finkelstein	Full transcript	
Dina Wald Margolis	Full transcript	

7. The exhibits to be offered in evidence including, where possible, anticipated impeachment and rebuttal exhibits, and objections thereto. Questions of authenticity, best evidence, chain of custody, and related grounds should be resolved between the parties before trial. Only the exhibits listed will be received in evidence except for good cause shown; and

Plaintiff intends to offer the following exhibits in her case in chief:

See Exhibit B annexed hereto.

Defendant intends to offer the following exhibits in its case in chief:

See Exhibit C annexed hereto.

8. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge. The statement shall not identify which parties have or have not consented.

The parties do not consent to trial of the case by a magistrate judge.

SO ORDERED:

Dated: Brooklyn, New York
_____, 2023

U.S.D.J.